Court No. 2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 188 (S/B) of 2005

Mohan Chandra Pandey, S/o Ram Singh Pandey,
Chief Pharmacist, C.H.C. Khatima,
District U.S. Nagar

..... Petitioner

Versus

1. State of Uttaranchal, through Principal Secretary, Health & Family Welfare
2. Director General Health & Family Welfare, Uttaranchal, Dehradun
3. Additional Medical Officer, Distt. U.S. Nagar.
4. Chief Medical Officer, Distt. U.S. Nagar.
5. Superintendent of C.H.C., Khatima, U.S. Nagar.

..... Respondent

Dated: 23.08.2005

Shri S.C. Bhatt, learned counsel for the petitioner.
Learned standing counsel for respondents.

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

By means of this writ petition, the petitioner has prayed for writ of Certiorari quashing the transfer order dated 08.08.2005 passed by Respondent No.2 whereby the petitioner has been transferred from C.H.C Khatima, Distt. U.S. Nagar to Fair Hospital (Mela Hospital) Hardwar.

Brief facts of the case according to the petitioner are that the petitioner is a Chief Pharmacist in C.H.C. Khatima, U.S. Nagar. The petitioner was suffering from the disease of spine (P.VD L 4/5 and LS) & was admitted on 18.09.2004 for operation of spinal called at Vishal Hospital & Heart Centre Janki Puram Lucknow. The Petitioner was discharged from the hospital on 28.09.2004 and doctor advised him not to bend forward side, avoid driving, weight lifting,

long journeys and climbing stairs for two years. The petitioner also informed about his illness to his authorities. By order-dated 08.08.2005, which is impugned in this writ petition, the petitioner has been transferred to Fair Hospital (Mela Hospital) Hardwar.

We have heard learned counsel for the parties and perused the entire evidence on record.

The transfer is an exigency of service. It is well settled that in transfer order if malafide is not established, the same cannot be interfered by this Court under Article 226 of Constitution of India. From the perusal of the writ petition, it is clear that no malafide is made out. However, it is made clear that the petitioner will be allowed to remain on medical leave till he is cured from the ailment according to leave rules.

Subject to above, the writ petition is disposed of finally.

(B.C. Kandpal, J) **(P.C. Verma, J.)**

Rajeev Dang